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Message

In Re Application of: Benjamin Mosier, et al

Serial No.: 09/921,238

Filed: August 2, 2001

For: Transesterification Composition of Fatty Acid Esters, and Uses Thereof

Examiner: Derrick G. Hamlin

Group Art Unit: 1751

Please see the attached Response to Final Office Action Dated February 10, 2005, with Declarations of Dr. Eric Simanek and Fred Massey, for filing in connection with the subject patent application.

Thank you,



Constance Gall Rhebergen

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APR 11 2005

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Docket No. 0468FV.44178

In Re Application of:
Mosier, et al.

Serial No.: 09/921,238

Filed: August 2, 2001

For: Transesterification Composition of Fatty
Acid Esters, and Uses Thereof§
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EXAMINER: Hamlin, Derrick G.

ART UNIT: 1751

RESPONSE TO FINAL OFFICE ACTION DATED FEBRUARY 10, 2005MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8(A)

I hereby certify that this correspondence is being forwarded to facsimile number
(703) 872-9306, c/o Examiner Derrick G. Hamlin, MAIL STOP AMENDMENTS,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date
below.

April 11, 2005

Date

Sharanda Mozart

Sharanda Mozart

Dear Sir:

This paper is filed in response to the final Office Action that was mailed February 10, 2005. Please enter the following amendments to the claims, if any, and remarks without prejudice as to patentability, including the doctrine of equivalents.

Claims 2, 4, 5, 9, 11-13, 19-25, 32-38, 40, 44 and 46-48 are pending in this application. A copy of the claims, including those not pending in the current application, is shown below. No amendments are made to existing claims. One claim is added.

Applicant gratefully acknowledges the Examiner's response regarding applicant's position that the Klein reference fails to teach particular elements in the claim. The Examiner continues by stating that the features upon which applicant relies are not recited in the rejected claims and

the Examiner therefore continues and makes final the rejection. Applicant would respectfully point out that the Examiner has failed to point out in the Klein patent where a transesterified fatty acid is disclosed, either expressly or inherently. Please note that Applicant's previous office action raised this point and requested that the Examiner make this showing. The Examiner has the burden of showing, as such, and has not met it here. The Examiner has not set forth any *prima facie* support for the Examiner's assertions in the Office Action regarding the anticipation by Klein of all elements of claim 2. Transesterified fatty acid is clearly a limitation in the claims of the current application. This was also not pointed out in the first office action. As the Applicant has yet to receive a supported statement as to where the Klein patent teaches the transesterified fatty acid of the current invention, Applicant respectfully submits that the office action is insufficient and the final rejection should be removed as improper. Applicant further respectfully requests that at a minimum the Examiner should indicate a *prima facie* showing as to why the Examiner believes a transesterified fatty acid can be implied in Klein.

Claim Amendment

No previous claims are being amended. One claim is added below. A copy of the claims follows.